

**MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, FEBRUARY 25, 2003
COUNTY COMMISSIONERS CHAMBERS, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.**

Commissioners Present: Bernie Heier, Chair
Ray Stevens, Vice Chair
Larry Hudkins
Deb Schorr
Bob Workman

Others Present: Kerry Eagan, Chief Administrative Officer
David Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Trish Owen, Chief Deputy County Clerk
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Commissioners meeting was called to order at 1:30 p.m.

- 1) **MINUTES:** Approval of the minutes of the Board of Commissioners meeting held on Tuesday, February 18, 2003. (A copy of these minutes is on file in the office of the Lancaster County Clerk or can be accessed at <http://www.ci.lincoln.ne.us>)

MOTION: Stevens moved and Hudkins seconded approval of the minutes of the Board of Commissioners meeting dated February 18, 2003. Hudkins, Workman, Heier and Stevens voted aye. Schorr abstained from voting. Motion carried.

- 2) **PUBLIC COMMENT:**

There was no public comment and the meeting proceeded as planned.

- 3) **SPECIAL PRESENTATIONS:**

A. The County-City Volunteer of the Month Award was presented to Dr. Michael Molvar for his services with the Lincoln-Lancaster County Health Department.

4) **CLAIMS FOR REVIEW:**

A. **Payment Voucher 784-7534, dated January 31, 2003 - The Lancaster County Community Mental Health Center has requested payment to Stacy Horner, totaling \$39.79, for mileage between July 8 and July 23, 2002. This time period is over 90 days old (see Neb. Rev. Stat. §23-135).**

MOTION: Workman moved and Schorr seconded approval of Payment Voucher 784-7534, dated January 31, 2003 - The Lancaster County Community Mental Health Center has requested payment to Stacy Horner, totaling \$39.79, for mileage between July 8 and July 23, 2002. Workman, Hudkins, Schorr, Stevens and Heier voted aye. Motion carried.

5) **CLAIMS: Approval of all claims processed through Tuesday, February 25, 2003.**

MOTION: Workman moved and Stevens seconded approval of all claims processed through February 25, 2003. Hudkins, Stevens, Workman, Heier and Schorr voted aye. Motion carried.

6) **PUBLIC HEARINGS:**

A. **Regulation of body art establishments for the public health, safety and welfare of the citizens of Lancaster County, Nebraska.**

The Chair opened the public hearing and asked if anyone wished to testify in favor of the proposal.

The Clerk administered the oath to Scott Holmes, Chief of the Environmental Health Division with the Lincoln-Lancaster Health Department.

Holmes gave a brief explanation of the three components of the code, noting that it is very similar to the City's code:

- ▶ Regulates establishments and requires inspections and permitting.
- ▶ Requires training requirements for practitioners.
- ▶ Tattooing of minors.

6) **PUBLIC HEARINGS CONTINUED:**

The Chair asked if anyone else wished to testify.

No one appeared and the hearing was closed.

B. Issuance of Hospital Revenue Bonds, Series 2003 (Grand Lodge Project) by Hospital Authority Number 1 of Lancaster County, Nebraska, in a total amount of \$19,000,000 with an initial amount of \$9,700,000.

The Chair opened the public hearing and asked if anyone wished to testify in favor of the proposal.

The Clerk administered the oath to Chuck Addy with Baird Holm Law Offices in Omaha, Nebraska.

Offered by Addy and marked for the record was a letter, dated February 25, 2003, to David W. Johnson, Deputy County Attorney (Exhibit 1) and a letter from Madonna Rehabilitation Hospital, dated February 17, 2003 (Exhibit 2).

Addy explained that the Grand Lodge Retirement Community has proposed acquisition of property at 80th and Pioneers Boulevard to construct an ancillary care facility. He stated that under the Internal Revenue Code it is necessary to hold a public hearing before an elected body to approve the issuance of tax exempt bonds for non-governmental entities.

In response to a question asked by Workman, Addy stated there was no liability on the part of the County or the Hospital Authority.

The Clerk administered the oath to Bart Votava with the Essex Corporation.

Votava presented a brief overview of the Grand Lodge at the Preserve noting that it would be a retirement community for seniors, 62 years of age and older.

The Chair asked if anyone else wished to testify.

No one appeared and the hearing was closed.

7) OLD BUSINESS:

A. A construction and maintenance agreement with the Burlington Northern and Santa Fe Railway Company. The agreement is for the replacement of the existing Firth Road at-grade crossing and construction of a new crossing at separated grades to be known as the Firth Viaduct, designated as Project C55-X-402(5) which is located at D.O.T. Crossing 083273X, more specifically located 500 feet west of the southeast corner of Section 27, Township 7 North, Range 7 East of the 6th Prime Meridian in Lancaster County, Nebraska. The existing Firth road at-grade crossing which D.O.T. Crossing 083273X shall be closed and removed upon completion of the construction and the opening of the new overpass. The total estimated cost to the County shall be \$24,707. (C-03-0041)

David Johnson, Deputy County Attorney, noted the following changes to the agreement:

- ▶ **Page 2, Section 4** - Payment of Orientation is to be made by the contractor.
- ▶ **Page 2, Section 4** - Change the second sentence from, "In the event that construction of the Project has not commenced within six months from the effective date of this agreement, the railway may, in its sole and absolute discretion, revise the cost estimates as set forth in Exhibit "B"" to "In the event that construction of the Project has not commenced within six months from the effective date of this agreement, the railway may, in its sole and absolute discretion, revise the cost estimates as set forth in and Exhibit "B", unless the delay is caused by the railway"".
- ▶ **Page 2, Section 5** - Change "To do all work provided in Article I, Section 4 above with its own employees working under the railway labor agreements or by contractor(s), if necessary, and on an actual cost basis" to "To do all work provided in Article I, Section 3 above with its own employees working under the railway labor agreements or by contractor(s), if necessary, and on an actual cost basis".
- ▶ **Page 5, Section 10** - Addition of the following language: "The parties agree that they shall be compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementing regulations dealing with the confidentiality of health information".
- ▶ **Page 5, Section 8** - Removal of "sole" negligence from the last sentence.

7) **OLD BUSINESS CONTINUED:**

It was noted by Johnson that all changes were accepted by the railroad with the exception of the removal of "sole" negligence from the last sentence in Section 8, Page 5.

Offered and marked for the record were the following:

- ▶ A letter from Burlington Northern and Santa Fe Railway Company indicating they have the necessary insurance relating to self insurance retention (Exhibit 3).
- ▶ An e-mail from Trev Peterson, local counsel for Burlington Northern, relating to Section 8, Page 5 of the agreement (Exhibit 4).

Johnson requested approval of the agreement subject to the four changes as agreed to by both the County and Burlington Northern.

MOTION: Hudkins moved and Schorr seconded to approve a construction and maintenance agreement with the Burlington Northern and Santa Fe Railway Company. The agreement is for the replacement of the existing Firth Road at-grade crossing and construction of a new crossing at separated grades to be known as the Firth Viaduct, designated as Project C55-X-402(5) which is located at D.O.T. Crossing 083273X, more specifically located 500 feet west of the southeast corner of Section 27, Township 7 North, Range 7 East of the 6th Prime Meridian in Lancaster County, Nebraska subject to the four changes as agreed to by both the County and Burlington Northern. Schorr, Stevens, Workman, Heier and Hudkins voted aye. Motion carried.

B. Recommendation from the Purchasing Agent and the County Engineer to award a bid to Christensen Brothers, Inc., in the amount of \$1,694,781.31, for the construction of the Firth Viaduct; Project C55-X-402(5). (B-03-0004)

MOTION: Hudkins moved and Schorr seconded approval to award a bid to Christensen Brothers, Inc., in the amount of \$1,694,781.31, for the construction of the Firth Viaduct; Project C55-X-402(5). Heier, Workman, Stevens, Schorr and Hudkins voted aye. Motion carried.

8) **NEW BUSINESS:**

- A. Adoption of a resolution approving the issuance, sale and delivery by Hospital Authority Number 1 Lancaster County, Nebraska in a total amount of \$19,000,000, with an initial amount of \$9,700,000, of its Hospital Revenue Bonds, Series 2003 (Grand Lodge Project).**

MOTION: Workman moved and Schorr seconded to adopt a resolution (R-03-0008) approving the issuance, sale and delivery by Hospital Authority Number 1 Lancaster County, Nebraska in a total amount of \$19,000,000, with an initial amount of \$9,700,000, of its Hospital Revenue Bonds, Series 2003 (Grand Lodge Project). Stevens, Hudkins, Heier, Workman and Schorr voted aye. Motion carried.

- B. Adoption of a resolution regulating body art establishments for the public health, safety and welfare of the citizens of Lancaster County, Nebraska. (R-03-0007)**

MOTION: Schorr moved and Stevens seconded approval of Resolution 03-0007 regulating body art establishments for the public health, safety and welfare of the citizens of Lancaster County, Nebraska. Workman, Schorr, Hudkins, Stevens and Heier voted aye. Motion carried.

- C. An interlocal agreement with Omaha Public Power District for the re-alignment and re-construction of the grade crossing at South 120th Street and Rokeby Road. The County shall pay Omaha Public Power District \$34,172 for constructing a re-aligned rail crossing. The District is also giving the County permission to provide for the approach grading and necessary drainage facilities in connection therewith and to provide any other grading or resurfacing. The work shall be performed between April 1, 2003 to December 31, 2003. (C-03-0065)**

MOTION: Workman moved and Stevens seconded approval of an interlocal agreement with Omaha Public Power District for the re-alignment and re-construction of the grade crossing at South 120th Street and Rokeby Road. The County shall pay Omaha Public Power District \$34,172 for constructing a re-aligned rail crossing. The District is also giving the County permission to provide for the approach grading and necessary drainage facilities in connection therewith and to provide any other grading or resurfacing. Hudkins, Workman, Heier, Schorr and Stevens voted aye. Motion carried.

8) NEW BUSINESS CONTINUED:

D. An agreement with Dr. Matthias I. Okoye for forensic pathology services as the coroner's physician. The services shall be provided for the County through the County Attorney's Office and shall include forensic autopsies, provision of a morgue facility, coroner's call, testimony, additional tests and other services. The term of the agreement shall be from April 1, 2003 to March 31, 2007. The County shall pay \$170,000 per year for the services and an additional fee of \$1,700 per autopsy for any autopsy over 100 for the contract year. (C-03-0068)

Johnson requested the agreement be approved with the following changes:

- ▶ **Section 1(c), Page 2** - Add the following language: "For purposes of this agreement, "adequate arrangements" shall mean that a qualified pathologist will be available as follows: (a) to consult by telephone with representatives of the County within eight hours after the County calls; (b) to be present at Dr. Okoye's morgue facility to perform autopsy and/or other related forensic pathology services within 24 hours after the County calls; and (c) to be available, on reasonable notice, to provide deposition and/or trial testimony relative to the services provided. The costs for all such services shall be paid by Dr. Okoye."
- ▶ **Section 5(b), Page 3** - Add the following language: "For purposes of this paragraph performance shall not be considered impossible for lack of funds until such time as the County has ceased funding all discretionary functions and has been forced to eliminate or reduce funding for mandatory functions such as coroner's services."

MOTION: Hudkins moved and Stevens seconded approval of an agreement with Dr. Matthias I. Okoye for forensic pathology services as the coroner's physician subject to the changes as outlined by the County Attorney's Office. Schorr, Heier, Stevens, Workman and Hudkins voted aye. Motion carried.

8) **NEW BUSINESS CONTINUED:**

- E. An addendum to an agreement with PayFlex Systems USA, Inc. for administering the County's Flexible Savings Account. The addendum addresses the requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations with respect to "business associates" as the term is defined by the HIPAA Privacy Regulations. (C-03-0066)**

Diane Staab, Deputy County Attorney, appeared and addressed both New Business Items 8E and 8F. She stated both plans regarding the County's Flexible Savings Account and the County's Combined Omnibus Budget Reconciliation Act (COBRA) are covered by HIPAA.

Staab noted that Item d, located in Section 5, on page three of both agreements should be omitted. She explained that PayFlex has agreed not to charge the County a fee for the services for complying with HIPAA.

MOTION: Stevens moved and Workman seconded approval of an addendum to an agreement with PayFlex Systems USA, Inc. for administering the County's Flexible Savings Account subject to the change as outlined by the County Attorney's Office. Hudkins, Schorr, Stevens, Heier and Workman voted aye. Motion carried.

- F. An addendum to an agreement with PayFlex Systems USA, Inc. for the County's Combined Omnibus Budget Reconciliation Act (COBRA) administration. The addendum addresses the requirements of the Health Insurance Portability and Privacy Act (HIPAA) Privacy Regulations with respect to "business associates" as the term is defined by the HIPAA Privacy Regulations. (C-03-0067)**

MOTION: Schorr moved and Hudkins seconded approval of an addendum to an agreement with PayFlex Systems USA, Inc. for the County's Combined Omnibus Budget Reconciliation Act (COBRA) administration subject to the change as outlined by the County Attorney's Office. Schorr, Hudkins, Heier, Workman and Stevens voted aye. Motion carried.

8) **NEW BUSINESS CONTINUED:**

G. Recommendation from the Purchasing Agent and the County Engineer to award a bid to Hartmann Construction Company, in the amount of \$542,895.47, for grading construction in connection with County Project 03-30. (B-03-0008)

Don Thomas, County Engineer, stated the bid was for annual grading construction and includes the following:

- ▶ One-half mile of East Van Dorn Street from 112th to 120th Streets
- ▶ 2.5 miles of Old Cheney Road from 112th to 148th Streets
- ▶ 2 miles of 120th Street from Highway 2 to the Bennet Road
- ▶ 1 mile of Saltillo Road from 84th to 98th Streets

Heier noted that he would abstain from voting on the motion.

MOTION: Stevens moved and Hudkins seconded approval to award a bid to Hartmann Construction Company, in the amount of \$542,895.47, for grading construction in connection with County Project 03-30. Schorr, Stevens, Hudkins and Workman voted aye. Heier abstained from voting. Motion carried.

9) **CONSENT ITEMS:** These are items of business that are routine which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

A. A resolution in the matter of County Change of Zone 210, requested by Jack W. Duke, Jr. and Joy L. Duke, from AG Agricultural to AGR Agricultural Residential, on property generally located at Southwest 126th Street and West "O" Street (Highway 6) in Lancaster County, Nebraska. (R-03-0006)

B. Requests from Candice Poulsen and Kimberly A. Hollibaugh, employees with Lancaster Manor, to voluntarily participate in the Lancaster County Retirement Plan having met the requirements.

9) **CONSENT ITEMS CONTINUED:**

C. Right-of-way contracts relating to road improvements between the Lancaster County Engineering Department and the following:

- ▶ KELCO Farms, in the total amount of \$8,046.62, at 14005 North 162nd Street; Project C55-H-410(1). (2 contracts) (C-03-0063 and C-03-0064)
- ▶ Marian Krueger on Princeton Road west of South 25th Street; Project C.P.W-144. This is a donation. (C-03-0060)
- ▶ Shirley Schutte, in the amount of \$1,777, on North 162nd Street between Highway 6 and Salt Creek Road; Project C55-H-410(1). (C-03-0062)
- ▶ Donald and Lena Tiedeman on Princeton Road west of South 25th Street; Project C.P.W-144. This is a donation. (C-03-0059)
- ▶ Arvid and Wava Wunderlich, in the amount of \$4,190, on North 162nd Street between Highway 6 and Salt Creek Road; Project C55-H-410(1). (C-03-0061)

MOTION: Workman moved and Stevens seconded approval of the Consent Items. Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

10) **OTHER BUSINESS:**

Bob Valentine, 2660 Park Avenue, appeared regarding the following:

- ▶ Remodeling of entrance to the County-City Building (reception area)
- ▶ County budget process
- ▶ Possibility of the City and the County not publishing public notice of agendas, delinquent taxes and notice to bidders

11) **ADJOURNMENT:**

MOTION: Stevens moved and Schorr seconded adjournment of the Board of Commissioners meeting at 2:37 p.m. Schorr, Hudkins, Workman, Heier and Stevens voted aye. Motion carried.

Bruce Medcalf
County Clerk

**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, FEBRUARY 25, 2003
COUNTY COMMISSIONERS CHAMBERS, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE REGULAR BOARD OF COMMISSIONERS
MEETING**

Commissioners Present: Bernie Heier, Chair
Ray Stevens, Vice Chair
Larry Hudkins
Deb Schorr
Bob Workman

Others Present: Norm Agena, County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
David Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Trish Owen, Chief Deputy County Clerk
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Equalization meeting was called to order at 2:37 p.m.

- 1) **MINUTES:** Approval of the minutes of the Board of Equalization meeting held on Tuesday, February 18, 2003. (A copy of these minutes is on file in the office of the Lancaster County Clerk.)

MOTION: Workman moved and Stevens seconded approval of the minutes of the Board of Equalization dated February 18, 2003. Schorr, Hudkins, Workman, Heier and Stevens voted aye. Motion carried.

- 2) **PUBLIC COMMENT:**

There was no public comment and the meeting proceeded as planned.

- 3) **ADDITIONS AND DEDUCTIONS:**

Approval of 2 additions and deductions to the tax assessment rolls per Exhibit A.

MOTION: Stevens moved and Schorr seconded approval of the additions and deductions to the tax assessment rolls. Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

4) **MOTOR VEHICLE TAX EXEMPTIONS:**

Family Service Association of Lincoln
First Evangelical Covenant Church
Parkview Christian School
St. Monica's
Vital Services Inc.

MOTION: Workman moved and Stevens seconded approval of the motor vehicle tax exemptions. Workman, Hudkins, Schorr, Stevens and Heier voted aye. Motion carried.

5) **ADJOURNMENT:**

MOTION: Stevens moved and Hudkins seconded adjournment of the Board of Equalization meeting at 2:40 p.m. Hudkins, Stevens, Workman, Heier and Schorr voted aye. Motion carried.

Bruce Medcalf
County Clerk